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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 BLAKE L. WARNER,

9 Plaintiff,

10 v.

11 ALCOA ELECTRICAL/AGENCY HUMAN
12 RESOURCES, *et al.*,

13 Defendants.
14

NO. C19-1884RSL

ORDER REQUIRING MORE
DEFINITE STATEMENT AND
DENYING MOTION FOR
APPOINTMENT OF COUNSEL

15 This matter comes before the Court on plaintiff's application for Court-appointed counsel.
16 Dkt. # 9.

17 Generally, a person has no right to counsel in civil actions. *See Storseth v.*
18 *Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). However, a court may under
19 "exceptional circumstances" appoint counsel for indigent civil litigants pursuant to
20 28 U.S.C. § 1915(e)(1). *Agyeman v. Corrs. Corp. of Am.*, 390 F.3d 1101, 1103 (9th
21 Cir. 2004). When determining whether "exceptional circumstances" exist, a court
22 must consider "the likelihood of success on the merits as well as the ability of the
23 petitioner to articulate his claims pro se in light of the complexity of the legal
24 issues involved." *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). Neither of
25 these considerations is dispositive and instead must be viewed together. *Wilborn v.*
Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986).

26 *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009). In addition, the party seeking appointment

27 ORDER REQUIRING MORE DEFINITE
28 STATEMENT AND DENYING MOTION
FOR APPOINTMENT OF COUNSEL - 1

1 of counsel must show indigency.

2 Mr. Warner is proceeding *pro se* and *in forma pauperis*. He alleges that defendants
3 violated his rights under the Americans With Disabilities Act (“ADA”) when they failed to
4 provide an American Sign Language interpreter for his interview. The failure to engage in an
5 interactive process in an effort to accommodate an interviewee’s hearing impairment may
6 constitute an ADA violation, *see Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1088-89 (9th
7 Cir. 2002), but Mr. Warner’s statement of the facts related to this claim is muddled. He
8 references, but does not include, various email communications and an EEOC report/letter. He
9 also mentions a phone call to a wrong number and suspected tampering with his email
10 communications. It is unclear from this recitation when and how Mr. Warner notified defendants
11 of his disability and/or need for an interpreter, which defendant or defendants were involved in
12 the decision not to provide an interpreter, when and how that decision was made, and whether
13 the lack of an interpreter impacted his interview.

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16 Federal Rule of Civil Procedure 8(a)(2) requires “a short and plain statement of the claim
17 showing that the pleader is entitled to relief.” At this point in time, plaintiff has stated a plausible
18 legal claim but has not presented any facts in support of the claim. Plaintiff has not, therefore,
19 shown that his right to relief is plausible under Rule 8(a)(2) or that his claim has merit for
20 purposes of appointment of counsel.
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23 For all of the foregoing reasons, the Court declines to issue summons in this matter and
24 declines to send his motion for appointment of counsel to the Pro Bono Screening Committee for
25 review. Plaintiff is hereby ORDERED to file on or before **March 12, 2020**, an amended
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27 ORDER REQUIRING MORE DEFINITE
28 STATEMENT AND DENYING MOTION
FOR APPOINTMENT OF COUNSEL - 2

1 complaint which clearly and concisely identifies the acts of which each defendant is accused,
2 how those acts violated plaintiff's rights under the ADA, and the relief requested (such as an
3 injunction, compensatory damages, statutory damages). The key to filing an acceptable amended
4 complaint will be providing enough facts in support of the legal claim asserted that one could
5 conclude that plaintiff has a right to relief that is at least plausible. The amended complaint will
6 replace the existing complaint in its entirety. Failure to timely file an amended complaint that
7 asserts a plausible claim for relief will result in dismissal of this action.
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9 The Clerk of Court is directed to place this Order Requiring More Definite Statement on
10 the Court's calendar for consideration on Friday, March 13, 2020.
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13 Dated this 5th day of February, 2020.

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15 Robert S. Lasnik
16 United States District Judge
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